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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,977	07/21/2003	Domenic Vittone	GLBL-1-1004	6616
25315	7590	04/22/2004	EXAMINER	
BLACK LOWE & GRAHAM, PLLC 701 FIFTH AVENUE SUITE 4800 SEATTLE, WA 98104			SHAW, CLIFFORD C	
			ART UNIT	PAPER NUMBER
			1725	

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/624,977	Applicant(s) VITTONI, DOMENIC	
	Examiner Clifford C Shaw	Art Unit 1725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1119 and 1124</u> . | 6) <input type="checkbox"/> Other: ____ |

Detailed Action

1.) The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2.) Claims 1-13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,627,832. Although the conflicting claims are not identical, they are not patentably distinct from each other because the application claims are broader in scope than the patented claim and are therefore obvious over the patented claim.

3.) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4.) Claims 8, 15, and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 8, it is not clear how an electrode wire can be both a solid electrode wire and a flux core wire. Because of this logical conundrum, it is not clear what

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the scope of claim 8 is. In claims 15 and 16, there is no antecedent basis for “the assembly system”, making it unclear what the scope of the claims is.

5.) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6.) Claims 1-4 and 6-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nordgren (3,370,150) taken with Nordgren (3,364,711). The patent to Nordgren (3,370,150) discloses a method and system for welding rebar sections including: a welding jig associated with clamping arrangement 47 shown in figure 6; an arrangement to position the rebar sections to physically touch and intersect at a desired location as shown in figures 10 and 11; and a welding torch discussed in column 4, lines 63 through column 5, line 2 which provides filler material and shielding gas at the welding point. The claims differ from Nordgren (3,370,150) in specifying shearing, bending, and rolling table limitations in the independent claims 1 and 14 and in specifying particular welding parameters in the dependent claims. These differences do not patentably distinguish over the prior art. At the time applicant's invention was made, it would have been obvious to have provided the claimed bending, shearing, and rolling table arrangements claimed, the motivation being the teachings of Nordgren (3,364,711) that such are advantageous for preparing rebar structures (see the shearing arrangements associated with elements 13 and 14, see the bending arrangements in figure 4 and see the rolling table associated

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with elements 90 and 91 in Nordgren (3,364,711)). Any regard to the dependent claims, the same are considered to be representative of obvious choices of particular known alloys and particular convenient welding parameter settings. In practicing the method of Nordgren (3,370,150), the claimed limitations could be used, the motivation being to secure the advantages of Nordgren (3,370,150) for well-known alloys and to adjust the welding parameters for a particular situation. None of the limitations set forth in these dependent claims is critical for any unexpected result. Applicant is to note that a method claim directed to combined specific alloys and specific welding parameters was allowed in the parent case. In this situation, applicant's specific method achieved a stronger weld for the rebar under tension as discussed in the disclosure. However, this result was achieved using the multiple limitations set forth in the patented claim. In the instant case, the dependent claims which set forth a single welding parameter or welding alloy beyond the limitations of independent claim 1 are each considered to be representative of routine choices that could not lead to any unexpected results by themselves.

7.) Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nordgren (3,370,150) taken with Nordgren (3,364,711) as applied to claims 1-4 and 6-16 above, and further in view of Sohn et al. (3,143,630). The only aspect of the claims to which the rejection above does not apply is the provision for a particular type of shielding gas. This difference does not patentably distinguish over the prior art. At the time applicant's invention was made, it would have been obvious to have used any conventional shielding gas in the system of Nordgren (3,370,150). In particular, it would have been obvious to have used a gas with the composition claimed, the motivation being the teachings of Sohn et al. (3,143,630) that such is advantageous

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for GMAW welding of steel workpieces (see column 6, lines 15-45 and claim 2 in Sohn et al. (3,143,630)).

8.) The Japanese document no. JP5-169261 is cited to show a prior art rebar welding arrangement. The patent to Muller et al. (2,508,868) is cited because it is incorporated by reference into the patent to Nordgren (3,370,150).

Any inquiry concerning this communication should be directed to Clifford C Shaw at telephone number 571-272-1182. The examiner can normally be reached on Monday through Friday of the first week of the pay period and on Tuesday through Friday of the second week of the pay period.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Thomas G. Dunn, can be reached at 571-272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Clifford C Shaw
Primary Examiner
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April 16, 2004